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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT FINEBERG, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

CAVIUM, INC., SYED B. ALI, ANTHONY S.
THORNLEY, SANJAY MEHROTRA,
EDWARD H. FRANK, BRAD W. BUSS, and
MADHAV V. RAJAN,

Defendants.

Case No.:

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF SECTIONS 14(A)
AND 20(A) OF THE SECURITIES
EXCHANGE ACT OF 1934**

JURY TRIAL DEMANDED

**CLASS ACTION COMPLAINT FOR VIOLATIONS OF SECTIONS 14(a) AND 20(a)
OF THE SECURITIES EXCHANGE ACT OF 1934**

1 Plaintiff Scott Fineberg (“Plaintiff”), by his undersigned attorneys, alleges upon personal
2 knowledge with respect to himself, and information and belief based upon, *inter alia*, the investigation
3 of counsel as to all other allegations herein, as follows:

4 **NATURE OF THE ACTION**

5 1. This action is brought as a class action by Plaintiff on behalf of himself and the other
6 public holders of the common stock of Cavium, Inc. (“Cavium” or the “Company”) against the
7 Company and the members of the Company’s board of directors (collectively, the “Board” or
8 “Individual Defendants,” and, together with Cavium, the “Defendants”) for their violations of
9 Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§
10 78n(a), 78t(a), SEC Rule 14a-9, 17 C.F.R. 240.14a-9, and Regulation G, 17 C.F.R. § 244.100 in
11 connection with the proposed merger (the “Proposed Merger”) between Cavium and Marvell
12 Technology Group Ltd. (“Marvell”).

13 2. On November 19, 2017, the Board caused the Company to enter into an agreement
14 and plan of merger (“Merger Agreement”), pursuant to which the Company’s shareholders stand to
15 receive \$40.00 in cash and 2.1757 shares of Marvell common stock for each share of Cavium stock
16 they own (the “Merger Consideration”), representing a transaction value of \$6 billion. Cavium
17 shareholders are expected to own 25% of the post-closing combined company.

18 3. On December 21, 2017, in order to convince Cavium shareholders to vote in favor of
19 the Proposed Merger, the Board authorized the filing of a materially incomplete and misleading Form
20 S-4 Registration Statement (the “S-4”) with the Securities and Exchange Commission (“SEC”), in
21 violation of Sections 14(a) and 20(a) of the Exchange Act. The materially incomplete and misleading
22 S-4 independently violates both Regulation G (17 C.F.R. § 244.100) and SEC Rule 14a-9 (17 C.F.R.
23 240.14a-9), each of which constitutes a violation of Section 14(a) and 20(a) of the Exchange Act.

24 4. While touting the fairness of the Merger Consideration to the Company’s shareholders
25 in the S-4, Defendants have failed to disclose certain material information that is necessary for
26 shareholders to properly assess the fairness of the Proposed Merger, thereby violating SEC rules and
27

1 regulations and rendering certain statements in the S-4 materially incomplete and misleading.

2 5. In particular, the S-4 contains materially incomplete and misleading information
3 concerning the financial forecasts for the Company and Marvell that were both prepared and relied
4 upon by the Board in recommending the Company's shareholders vote in favor of the Proposed
5 Merger as well as utilized by Cavium's financial advisors, Qatalyst Partners LP ("Qatalyst") and J.P.
6 Morgan Securities LLC ("J.P. Morgan"), in conducting the valuation analyses in support of its
7 fairness opinion.

8 6. It is imperative that the material information that has been omitted from the S-4 is
9 disclosed prior to the forthcoming stockholder vote in order to allow the Company's stockholders to
10 make an informed decision regarding the Proposed Merger.

11 7. For these reasons, and as set forth in detail herein, Plaintiff asserts claims against
12 Defendants for violations of Sections 14(a) and 20(a) of the Exchange Act, based on Defendants'
13 violation of (i) Regulation G (17 C.F.R. § 244.100) and (ii) Rule 14a-9 (17 C.F.R. 240.14a-9).
14 Plaintiff seeks to enjoin Defendants from holding the stockholders vote on the Proposed Merger and
15 taking any steps to consummate the Proposed Merger unless, and until, the material information
16 discussed below is disclosed to Cavium shareholders sufficiently in advance of the vote on the
17 Proposed Merger or, in the event the Proposed Merger is consummated, to recover damages resulting
18 from the Defendants' violations of the Exchange Act.

19 **JURISDICTION AND VENUE**

20 8. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act
21 (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations
22 of Section 14(a) and 20(a) of the Exchange Act.

23 9. Personal jurisdiction exists over each Defendant either because the Defendant
24 conducts business in or maintains operations in this District, or is an individual who is either present
25 in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to
26

render the exercise of jurisdiction over Defendant by this Court permissible under traditional notions of fair play and substantial justice.

10. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. § 78aa, as well as under 28 U.S.C. § 1391, because Cavium is headquartered in this District.

PARTIES

11. Plaintiff is, and at all relevant times has been, a holder of Cavium common stock.

12. Defendant Cavium is incorporated in Delaware and maintains its principal executive offices at 2315 North First Street, San Jose, California 95131. The Company's common stock trades on the NASDAQ under the ticker symbol "CAVM".

13. Individual Defendant Syed B. Ali has served as Cavium's Chief Executive Officer, President, and Chairman of the Board since co-founding the Company in 2000.

14. Individual Defendant Anthony S. Thornley has served as a director of the Company since 2006.

15. Individual Defendant Sanjay Mehrotra has served as a director of the Company since 2009.

16. Individual Defendant Edward H. Frank has served as a director of the Company since July 2016.

17. Individual Defendant Brad W. Buss has served as a director of the Company since July 2016.

18. Individual Defendant Madhav V. Rajan has served as a director of the Company since 2013.

19. The Individual Defendants referred to in paragraphs 13-18 are collectively referred to herein as the "Individual Defendants" and/or the "Board."

CLASS ACTION ALLEGATIONS

20. Plaintiff brings this class action pursuant to Fed. R. Civ. P. 23 on behalf of himself and the other public shareholders of Cavium (the "Class"). Excluded from the Class are Defendants

herein and any person, firm, trust, corporation, or other entity related to or affiliated with any Defendant.

21. This action is properly maintainable as a class action because:

a. The Class is so numerous that joinder of all members is impracticable. As of December 19, 2017, there were approximately 69,155,794 shares of Cavium common stock outstanding, held by hundreds of individuals and entities scattered throughout the country.

The actual number of public shareholders of Cavium will be ascertained through discovery;

b. There are questions of law and fact that are common to the Class that predominate over any questions affecting only individual members, including the following:

i) whether Defendants disclosed material information that includes non-GAAP financial measures without providing a reconciliation of the same non-GAAP financial measures to their most directly comparable GAAP equivalent in violation of Section 14(a) of the Exchange Act;

ii) whether Defendants have misrepresented or omitted material information concerning the Proposed Merger in the S-4 in violation of Section 14(a) of the Exchange Act;

iii) whether the Individual Defendants have violated Section 20(a) of the Exchange Act; and

iv) whether Plaintiff and other members of the Class will suffer irreparable harm if compelled to vote their shares regarding the Proposed Merger based on the materially incomplete and misleading S-4.

c. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature, and will fairly and adequately protect the interests of the Class;

d. Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class;

1 e. The prosecution of separate actions by individual members of the Class would
 2 create a risk of inconsistent or varying adjudications with respect to individual members of
 3 the Class, which would establish incompatible standards of conduct for the party opposing the
 4 Class;

5 f. Defendants have acted on grounds generally applicable to the Class with
 6 respect to the matters complained of herein, thereby making appropriate the relief sought
 7 herein with respect to the Class as a whole; and

8 g. A class action is superior to other available methods for fairly and efficiently
 9 adjudicating the controversy.

10 **SUBSTANTIVE ALLEGATIONS**

11 **I. The Proposed Merger**

12 22. Cavium is a provider of semiconductor processors that enable intelligent networking,
 13 communications, and security applications. The Company's product line includes multi-core
 14 processors for embedded and data center applications, network connectivity for serve and switches,
 15 storage connectivity, and security processors for offload and appliance. Syed Ali and Raghbir Hussain
 16 co-founded the Company in 2000.

17 23. On November 20, 2017, Cavium and Marvell issued a joint press release announcing
 18 the Proposed Merger, which states in pertinent part:

19 **Santa Clara, and San Jose Calif. (November 20, 2017)** - Marvell
 20 Technology Group Ltd. (NASDAQ: MRVL) and Cavium, Inc.
 21 (NASDAQ: CAVM) today announced a definitive agreement,
 22 unanimously approved by the boards of directors of both companies,
 23 under which Marvell will acquire all outstanding shares of Cavium
 24 common stock in exchange for consideration of \$40.00 per share in
 cash and 2.1757 Marvell common shares for each Cavium share. Upon
 completion of the transaction, Marvell will become a leader in
 infrastructure solutions with approximately \$3.4 billion¹ in annual
 revenue.

25 The transaction combines Marvell's portfolio of leading HDD and SSD
 26 storage controllers, networking solutions and high-performance
 27 wireless connectivity products with Cavium's portfolio of leading
 multi-core processing, networking communications, storage
 connectivity and security solutions. The combined product portfolios

1 provide the scale and breadth to deliver comprehensive end-to-
2 end solutions for customers across the cloud data center, enterprise and
3 service provider markets, and expands Marvell's serviceable
4 addressable market to more than \$16 billion. This transaction also
5 creates an R&D innovation engine to accelerate product development,
6 positioning the company to meet today's massive and growing demand
7 for data storage, heterogeneous computing and high-speed
8 connectivity.

9 "This is an exciting combination of two very complementary
10 companies that together equal more than the sum of their parts," said
11 Marvell President and Chief Executive Officer, Matt Murphy. "This
12 combination expands and diversifies our revenue base and end markets,
13 and enables us to deliver a broader set of differentiated solutions to our
14 customers. Syed Ali has built an outstanding company, and I'm excited
15 that he is joining the Board. I'm equally excited that Cavium's Co-
16 founder Raghav Hussain and Vice President of IC Engineering Anil
17 Jain will also join my senior leadership team. Together, we all will be
18 able to deliver immediate and long-term value to our customers,
19 employees and shareholders."

20 "Individually, our businesses are exceptionally strong, but together, we
21 will be one of the few companies in the world capable of delivering
22 such a comprehensive set of end-to-end solutions to our combined
23 customer base," said Cavium Co-founder and Chief Executive Officer,
24 Syed Ali. "Our potential is huge. We look forward to working closely
25 with the Marvell team to ensure a smooth transition and to start
26 unlocking the significant opportunities that our combination creates."
27 The transaction is expected to generate at least \$150 to \$175 million of
28 annual run-rate synergies within 18 months post close and to be
significantly accretive to revenue growth, margins and non-
GAAP EPS.

24. The Merger Consideration appears inadequate in light of the Company's recent
financial performance and prospects for future growth. For instance, the Company has reported
double-digit sales growth and positive gross income growth since 2013. Most recently, the
Company has reported positive EBITDA earnings for the last four fiscal quarters, and positive
EBITDA growth for three of those quarters.

25. In sum, it appears that Cavium is well-positioned for financial growth, and that the
Merger Consideration fails to adequately compensate the Company's shareholders. It is imperative
that Defendants disclose the material information they have omitted from the S-4, discussed in detail
below, so that the Company's shareholders can properly assess the fairness of the Merger

1 Consideration for themselves and make an informed decision concerning whether or not to vote in
2 favor of the Proposed Merger.

3 **II. The Materially Incomplete and Misleading S-4**

4 26. On December 21, 2017, Defendants caused the S-4 to be filed with the SEC in
5 connection with the Proposed Merger. The S-4 solicits the Company's shareholders to vote in favor
6 of the Proposed Merger. Defendants were obligated to carefully review the S-4 before it was filed
7 with the SEC and disseminated to the Company's shareholders to ensure that it did not contain any
8 material misrepresentations or omissions. However, the S-4 misrepresents and/or omits material
9 information that is necessary for the Company's shareholders to make an informed decision
10 concerning whether to vote in favor of the Proposed Merger, in violation of Sections 14(a) and 20(a)
11 of the Exchange Act.

12 ***Financial Forecasts that Violate Regulation G and SEC Rule 14a-9***

13 27. The S-4 fails to provide material information concerning the Company's financial
14 forecasts, which were developed by the Company's management and relied upon by the Board in
15 recommending that the shareholders vote in favor of the Proposed Merger. S-4, 114-15. These
16 financial forecasts were also relied upon by the Company's financial advisors, Qatalyst and J.P.
17 Morgan, in rendering its fairness opinion. S-4, 97-98; 105.

18 28. Specifically, the S-4 provides two sets of financial forecasts developed by Cavium's
19 management, the *Cavium Projections* and the *Adjusted Marvell Projections*. S-4, 114-15. As part of
20 the forecast, the S-4 further discloses the values and definitions of several non-GAAP (Generally
21 Accepted Accounting Principles) financial metrics: (1) Non-GAAP income from operations; (2)
22 Non-GAAP net income per share, diluted; (3) Net Operating Profit After Taxes; (4) Unlevered Free
23 Cash Flow; (5) Unlevered Free Cash Flow (including Stock-Based Compensation); and (6) EBITDA,
24 but fails to provide: (i) the value of certain line items used to calculate these non-GAAP measures, or
25 (ii) a reconciliation to their most comparable GAAP measures, in direct violation of Regulation G
26 and consequently Section 14(a). S-4, 114-15

29. Although the S-4 defines each of the aforementioned non-GAAP financial measures and discloses the line items used in each measures' calculation in accompanying footnotes, the S-4 fails to provide the values of these line items, and fails to reconcile each measure to its most comparable GAAP equivalent. S-4, 114-15.

30. When a company discloses non-GAAP financial measures in a registration statement that were relied on by a board of directors to recommend that shareholders exercise their corporate suffrage rights in a particular manner, the company must, pursuant to SEC regulatory mandates, also disclose all forecasts and information necessary to make the non-GAAP measures not misleading, and must provide a reconciliation (by schedule or other clearly understandable method) of the differences between the non-GAAP financial measure disclosed or released with the most comparable financial measure or measures calculated and presented in accordance with GAAP. 17 C.F.R. § 244.100.

31. Indeed, the SEC has increased its scrutiny of the use of non-GAAP financial measures in communications with shareholders. Former SEC Chairwoman Mary Jo White has stated that the frequent use by publicly traded companies of unique company-specific non-GAAP financial measures (as Cavium included in the S-4 here), implicates the centerpiece of the SEC's disclosures regime:

In too many cases, the non-GAAP information, which is meant to supplement the GAAP information, has become the key message to investors, crowding out and effectively supplanting the GAAP presentation. Jim Schnurr, our Chief Accountant, Mark Kronforst, our Chief Accountant in the Division of Corporation Finance and I, along with other members of the staff, have spoken out frequently about our concerns to raise the awareness of boards, management and investors. And last month, the staff issued guidance addressing a number of troublesome practices *which can make non-GAAP disclosures misleading*: the lack of equal or greater prominence for GAAP measures; exclusion of normal, recurring cash operating expenses; individually tailored non-GAAP revenues; lack of consistency; cherry-picking; and the use of cash per share data. I strongly urge companies to carefully consider this guidance and revisit their approach to non-GAAP disclosures. I also urge again, as I did last December, that

appropriate controls be considered and that audit committees carefully oversee their company's use of non-GAAP measures and disclosures.¹

32. The SEC has repeatedly emphasized that disclosure of non-GAAP forecasts can be inherently misleading, and has therefore heightened its scrutiny of the use of such forecasts.² Indeed, the SEC's Division of Corporation Finance released a new and updated Compliance and Disclosure Interpretation ("C&DIs") on the use of non-GAAP financial measures to clarify the extremely narrow and limited circumstances, known as the business combination exemption, where Regulation G would not apply.³

33. More importantly, the C&DI clarifies when the business combination exemption does not apply:

There is an exemption from Regulation G and Item 10(e) of Regulation S-K for non-GAAP financial measures disclosed in communications subject to Securities Act Rule 425 and Exchange Act Rules 14a-12 and 14d-2(b)(2); it is also intended to apply to communications subject to Exchange Act Rule 14d-9(a)(2). This exemption does not extend beyond such communications. Consequently, if the same non-GAAP financial measure that was included in a communication filed under one of those rules is also disclosed in a Securities Act registration statement, proxy statement, or tender offer statement, this exemption from Regulation G and Item 10(e) of Regulation S-K would not be available for that non-GAAP financial measure.

Id.

34. Thus, the C&DI makes clear that the so-called "business combination" exemption from the Regulation G non-GAAP to GAAP reconciliation requirement applies solely to the extent that a third-party such as financial banker has utilized projected non-GAAP financial measures to

¹ Mary Jo White, *Keynote Address, International Corporate Governance Network Annual Conference: Focusing the Lens of Disclosure to Set the Path Forward on Board Diversity, Non-GAAP, and Sustainability* (June 27, 2016), <https://www.sec.gov/news/speech/chair-white-icgn-speech.html>. (emphasis added)

² See, e.g., Nicolas Grabar and Sandra Flow, *Non-GAAP Financial Measures: The SEC's Evolving Views*, Harvard Law School Forum on Corporate Governance and Financial Regulation (June 24, 2016), <https://corpgov.law.harvard.edu/2016/06/24/non-gaap-financial-measures-the-secs-evolving-views/>; Gretchen Morgenson, *Fantasy Math Is Helping Companies Spin Losses Into Profits*, N.Y. Times, Apr. 22, 2016, http://www.nytimes.com/2016/04/24/business/fantasy-math-is-helping-companies-spin-losses-into-profits.html?_r=0.

³ *Non-GAAP Financial Measures*, U.S. Securities and Exchange Commission (Oct. 17, 2017), available at <https://www.sec.gov/divisions/corpfin/guidance/nongaapinterp.htm#101>. To be sure, there are other situations where Regulation G would not apply but are not applicable here.

1 render a report or opinion to the Board. To the extent the Board also examined and relied on internal
2 financial forecasts to recommend a transaction, Regulation G applies.

3 35. Because the S-4 explicitly discloses that the Board considered the forecasts of future
4 financial and operational results of the combined company, no exemption from Regulation G is
5 applicable. S-4, 113.

6 36. At the very least, the Company must disclose the line item forecasts for the financial
7 metrics that were used to calculate the aforementioned non-GAAP measures. Such forecasts are
8 necessary to make the non-GAAP forecasts included in the S-4 not misleading. Indeed, the
9 Defendants acknowledge the misleading nature of non-GAAP financial measures, as Cavium
10 stockholders are cautioned:

11 The Unaudited Prospective Financial Information includes certain non-
12 GAAP financial measures. Non-GAAP financial measures should not
13 be considered in isolation from, or as a substitute for, financial
14 information presented in compliance with GAAP, and non-GAAP
15 financial measures as used by Marvell and Cavium may not be
16 comparable to similarly titled amounts used by other companies.
17 S-4, 117.

18 37. Thus, to bring the S-4 into compliance with Regulation G as well as cure the materially
19 misleading nature of the forecasts under SEC Rule 14a-9 as a result of the omitted information on
20 page 115, Defendants must provide a reconciliation table of the non-GAAP measures to the most
21 comparable GAAP measures.

22 ***Post-Close Employment***

23 38. The S-4 discloses that Marvell entered into post-close employment arrangements with
24 at least six key Cavium employees including Cavium's Chief Operating Officer, Raghiv Hussain, and
25 Corporate Vice President, Anil Jain. S-4, 78; 123-24. The S-4 also discloses that "on October 31,
26 2017, representatives of Marvell began evaluating the compensation for certain key employees of
27 Cavium . . . for the purpose of delivering offer letters, which would be contingent upon the closing of
28 the proposed transaction . . ." S-4, 72.

39. These disclosures are materially misleading and must be corrected. First, the aforementioned disclosures fail to provide shareholders with material information regarding the timing of the discussions about post-close employment arrangements. Although the S-4 discloses that compensation evaluations began on October 31, 2017, it does not disclose when discussions that Marvell wished to retain certain key employees began. Without this information, Cavium shareholders are unable to discern whether Cavium's Board acted appropriately in allowing management's, especially Hussain's, continued involvement in the sale process. Thus, the omission of information surrounding the timing of employment discussions renders the S-4 materially misleading.

40. Clearly, shareholders would find this information material since the Board's unanimous recommendation that shareholders vote in favor the Proposed Merger was based, in part on the following:

- the fact that the consideration proposed by Marvell reflected extensive negotiations between the parties and their respective advisors, and the Cavium board of directors' belief that the agreed Merger Consideration represented the best proposal and economic value available to Cavium shareholders, based upon an overall assessment of the net present value of the risk-adjusted returns that are likely to accrue to shareholders over the long term;
- the expectation that the Merger will result in greater long-term shareholder value than the potential for earnings per share accretion that might result from other alternatives available to Cavium, including seeking an alternative transaction with another third party or remaining an independent public company, in each case, considering the potential for Cavium shareholders to share in any future earnings growth of Cavium's businesses, and the continued expenses of operating a public company and the overall assessment of the net present value of the risk-adjusted returns that are likely to accrue to shareholders over the long term;
- the Cavium board of directors' familiarity with, and understanding of, Cavium's business, assets, financial condition, results of operations, current business strategy, prospects and the risks facing the semiconductor industry and Cavium;
- information and discussions with Cavium's management and advisors regarding Marvell's business, assets, financial condition, results of operations, current business strategy and prospects, including the projected long-term financial results of Marvell as a

standalone company, the size and scale of the combined company and the expected pro forma effect of the proposed Merger on the combined company;

- the fact that Cavium conducted a thorough process to explore Cavium's strategic alternatives during which representatives of Cavium sought offers from various potential buyers, none of which made an offer or even expressed an interest to engage in substantive discussions concerning a transaction with Cavium;

S-4, 83-84.

41. In sum, the S-4 independently violates both (i) Regulation G, which requires a presentation and reconciliation of any non-GAAP financial to their most directly comparable GAAP equivalent, and (ii) Rule 14a-9, since the material omitted information renders certain statements, discussed above, materially incomplete and misleading. As the S-4 independently contravenes the SEC rules and regulations, Defendants violated Section 14(a) and Section 20(a) of the Exchange Act by filing the S-4 to garner votes in support of the Proposed Merger from Cavium shareholders.

42. Absent disclosure of the foregoing material information prior to the special shareholder meeting to vote on the Proposed Merger, Plaintiff and the other members of the Class will not be able to make a fully-informed decision regarding whether to vote in favor of the Proposed Merger, and they are thus threatened with irreparable harm, warranting the injunctive relief sought herein.

COUNT I

(Against All Defendants for Violations of Section 14(a) of the Exchange Act and 17 C.F.R. § 244.100 Promulgated Thereunder)

43. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

44. Section 14(a)(1) of the Exchange Act makes it "unlawful for any person, by the use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of

any security (other than an exempted security) registered pursuant to section 78l of this title.” 15
U.S.C. § 78n(a)(1). 16

45. As set forth above, the S-4 omits information required by SEC Regulation G, 17 C.F.R. 17
§ 244.100, which independently violates Section 14(a). SEC Regulation G among other things, 18
requires an issuer that chooses to disclose a non-GAAP measure to provide a presentation of the “most 19
directly comparable” GAAP measure, and a reconciliation “by schedule or other clearly 20
understandable method” of the non-GAAP measure to the “most directly comparable” GAAP 21
measure. 17 C.F.R. § 244.100(a). 22

46. The failure to reconcile the numerous non-GAAP financial measures included in the 23
S-4 violates Regulation G and constitutes a violation of Section 14(a). 24

COUNT II
(Against All Defendants for Violations of Section 14(a) of the Exchange Act and
Rule 14a-9 Promulgated Thereunder)

47. Plaintiff incorporates each and every allegation set forth above as if fully set forth 25
herein. 26

48. SEC Rule 14a-9 prohibits the solicitation of shareholder votes in registration 27
statements that contain “any statement which, at the time and in the light of the circumstances under 28
which it is made, is false or misleading with respect to any material fact, or which omits to state any
material fact necessary in order to make the statements therein not false or misleading.” 17 C.F.R. §
240.14a-9.

49. Regulation G similarly prohibits the solicitation of shareholder votes by “mak[ing]
public a non-GAAP financial measure that, taken together with the information accompanying that
measure, contains an untrue statement of a material fact or omits to state a material fact necessary in
order to make the presentation of the non-GAAP financial measure...not misleading.” 17 C.F.R. §
244.100(b).

50. Defendants have issued the S-4 with the intention of soliciting shareholder support for
the Proposed Merger. Each of the Defendants reviewed and authorized the dissemination of the S-4,

1 which fails to provide critical information regarding, amongst other things, the financial forecasts for
2 the Company and Marvell.

3 51. In so doing, Defendants made untrue statements of fact and/or omitted material facts
4 necessary to make the statements made not misleading. Each of the Individual Defendants, by virtue
5 of their roles as officers and/or directors, were aware of the omitted information but failed to disclose
6 such information, in violation of Section 14(a). The Individual Defendants were therefore negligent,
7 as they had reasonable grounds to believe material facts existed that were misstated or omitted from
8 the S-4, but nonetheless failed to obtain and disclose such information to shareholders although they
9 could have done so without extraordinary effort.

10 52. The Individual Defendants knew or were negligent in not knowing that the S-4 is
11 materially misleading and omits material facts that are necessary to render it not misleading. The
12 Individual Defendants undoubtedly reviewed and relied upon the omitted information identified
13 above in connection with their decision to approve and recommend the Proposed Merger.

14 53. The Individual Defendants knew or were negligent in not knowing that the material
15 information identified above has been omitted from the S-4, rendering the sections of the S-4
16 identified above to be materially incomplete and misleading.

17 54. The Individual Defendants were, at the very least, negligent in preparing and
18 reviewing the S-4. The preparation of a registration statement by corporate insiders containing
19 materially false or misleading statements or omitting a material fact constitutes negligence. The
20 Individual Defendants were negligent in choosing to omit material information from the S-4 or failing
21 to notice the material omissions in the S-4 upon reviewing it, which they were required to do carefully
22 as the Company's directors. Indeed, the Individual Defendants were intricately involved in the
23 process leading up to the signing of the Merger Agreement and the preparation of the Company's
24 financial forecasts.

25 55. Cavium is also deemed negligent as a result of the Individual Defendants' negligence
26 in preparing and reviewing the S-4.

57. Plaintiff and the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate and irreparable injury that Defendants' actions threaten to inflict.

9 58. Plaintiff incorporates each and every allegation set forth above as if fully set forth
0 herein.

59. The Individual Defendants acted as controlling persons of Cavium within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers and/or directors of Cavium, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the incomplete and misleading statements contained in the S-4 filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements that Plaintiff contends are materially incomplete and misleading.

8 60. Each of the Individual Defendants was provided with or had unlimited access to copies
9 of the S-4 and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these
10 statements were issued and had the ability to prevent the issuance of the statements or cause the
11 statements to be corrected.

61. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the Exchange Act violations alleged herein, and exercised the same. The S-4 at issue contains the unanimous recommendation of

1 each of the Individual Defendants to approve the Proposed Merger. They were thus directly involved
2 in preparing the S-4.

3 62. In addition, as the S-4 sets forth at length, and as described herein, the Individual
4 Defendants were involved in negotiating, reviewing, and approving the Merger Agreement. The S-4
5 purports to describe the various issues and information that the Individual Defendants reviewed and
6 considered. The Individual Defendants participated in drafting and/or gave their input on the content
7 of those descriptions.

8 63. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of
9 the Exchange Act.

10 64. As set forth above, the Individual Defendants had the ability to exercise control over
11 and did control a person or persons who have each violated Section 14(a) and Rule 14a-9 by their acts
12 and omissions as alleged herein. By virtue of their positions as controlling persons, these Defendants
13 are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of
14 Individual Defendants' conduct, Plaintiff and the Class will be irreparably harmed.

15 65. Plaintiff and the Class have no adequate remedy at law. Only through the exercise of
16 this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate and
17 irreparable injury that Defendants' actions threaten to inflict.

18 **PRAYER FOR RELIEF**

19 **WHEREFORE**, Plaintiff prays for judgment and relief as follows:

20 A. Declaring that this action is properly maintainable as a Class Action and certifying
21 Plaintiff as Class Representative and his counsel as Class Counsel;

22 B. Enjoining Defendants and all persons acting in concert with them from proceeding
23 with the shareholder vote on the Proposed Merger or consummating the Proposed Merger, unless and
24 until the Company discloses the material information discussed above which has been omitted from
25 the S-4;

26 C. Directing the Defendants to account to Plaintiff and the Class for all damages sustained
27

as a result of their wrongdoing;

D. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and expert fees and expenses;

E. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: January 2, 2018

Respectfully submitted,

FARUQI & FARUQI, LLP

OF COUNSEL:

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Counsel for Plaintiff

Counsel for Plaintiff

CERTIFICATION OF PROPOSED LEAD PLAINTIFF

I, Scott Fineberg ("Plaintiff"), declare, as to the claims asserted under the federal securities laws, that:

1. Plaintiff has reviewed a draft complaint against Cavium, Inc. ("Cavium") and its board of directors and has authorized the filing of a complaint substantially similar to the one I reviewed.
2. Plaintiff selects Faruqi & Faruqi, LLP and any firm with which it affiliates for the purpose of prosecuting this action as my counsel for purposes of prosecuting my claim against defendants.
3. Plaintiff did not purchase the security that is the subject of the complaint at the direction of Plaintiff's counsel or in order to participate in any private action arising under the federal securities laws.
4. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
5. Plaintiff's transactions in Cavium securities that are the subject of the complaint during the class period specified in the complaint are set forth in the chart attached hereto.
6. In the past three years, Plaintiff has not sought to serve nor has served as a representative party on behalf of a class in an action filed under the federal securities laws, except as specified below:
7. Plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

I declare under penalty of perjury under the laws of the United States that the foregoing information is correct to the best of my knowledge.

Signed this 29th day of December 2017.


Scott Fineberg

Transaction (Purchase or Sale)	Trade Date	Quantity
Purchase	02/02/17	100